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SUBJECT: CROATIAN PARLIAMENT BACKS KOSOR TO SIGN
ARBITRATION DEAL WITH SLOVENIA

REF: A. FOLEY-FREDEN-JONES EMAIL 26-OCT
[1](#)B. LJUBLJANA 336

[1](#)1. (U) SUMMARY: The Croatian Parliament on November 2 voted by simple majority to authorize Prime Minister Jadranka Kosor to sign the Arbitration Agreement (AA) with Slovenia agreed between the two Prime Ministers on 26 October (ref A). The GoC hopes Kosor and Pahor will be able to sign the Agreement in Stockholm on November 4. In the same vote, the Croatian Parliament authorized the GoC to issue a unilateral statement regarding the Croatian views of the non-prejudicial nature of the AA. This statement on non-prejudice will be formally issued after Kosor signs the deal with Pahor, but before the Croatian Parliament is asked to ratify Arbitration Agreement. The main opposition party, the Social Democrats, abstained in yesterday's vote. In order to secure the two-thirds majority that should eventually be needed to ratify the AA, the GoC will likely seek public assurances from the European Commission that both Croatia and Slovenia will be consulted prior to the issuing of the list of potential arbitrators.
END SUMMARY

PARLIAMENT GIVES THE GREEN LIGHT

[1](#)2. (U) After nearly 10 hours of debate, the Croatian Parliament on 2 November voted 80 to 9, with 45 abstentions, to authorize PM Kosor to sign the Arbitration Agreement. Most members of the main Social Democratic opposition party (SDP), abstained from the vote and harshly criticized Kosor's handling of the negotiations. Despite the tough rhetoric, however, the SDP did not rule out ultimately supporting the agreement when Kosor brings it back to Parliament for final ratification. In the same vote, the Croatian parliament authorized Kosor to make a unilateral declaration on behalf of Croatia that asserts the non-prejudicial nature of the Arbitration Agreement, noting that by consenting to the agreement Croatia has not a priori accepted Slovenia's claim to direct territorial contact with international waters. The unilateral declaration will be made after/after Kosor signs the deal with Pahor. The US and Sweden -- on behalf of the EU -- will "witness" the unilateral declaration, but the US and Sweden will not/not co-sign the statement.

[1](#)3. (U) GoC officials and the Swedish Ambassador to Croatia told us on November 2 that plans were still in process to have Kosor and her Slovenian counterpart PM Borut Pahor sign the AA in Stockholm on November 4. (NOTE: Croatian officials have noted PM Pahor's public statements that he will not sign the AA if Sweden intends to witness Croatia's unilateral statement, but say they have had no direct communication on the subject from Ljubljana, so are continuing plans as previously agreed. END NOTE.) After signature, and after leaving Stockholm, the GoC would issue its unilateral statement with the US and Sweden witnessing, and then return to parliament for a second and final debate on the signed Arbitration Agreement. The government plans to seek a

two-thirds majority to ratify the agreement to avoid any constitutional challenges that could result if a negative Arbitration decision would require Croatia to "adjust" its interpretation of its borders. Croatia's constitution requires changes to its border to be endorsed by a 2/3 vote in parliament.

HARSH CRITICISM, BUT PM HOLDS FIRM

¶4. (U) PM Kosor began the Parliamentary debate by telling MPs that the Government was not abandoning its claims or giving away its territory by signing this agreement. Kosor told them that this was a "patriotic decision" about whether Croatia is about to finish EU accession negotiations, or whether it will remain in front of the EU doors for the next 10 years. She also argued that the current agreement is better than the original Rehn proposal because the deadlines for the arbitration court will only start when Croatia signs the EU accession agreement. On 30 October, President Mesic quieted some critics when he expressed support for the deal and said rejecting it at this point in time would cause more harm than good to Croatia.

¶5. (U) Nonetheless, the AA has come in for some public criticism from the Catholic Church in Croatia and a group of intellectuals. In two separate statements, the Catholic Bishops' Conference Justitia et Pax Commission and a group of Croatian intellectuals spoke unequivocally against the agreement. "The Government and the Sabor have no right to accept this, even at the cost of not joining the EU or of a continuation of the blockade," stresses the Church's statement. The 26 Croatian intellectuals -- including retired military officers, writers, journalists, academics, scientists and prominent members of the Croatian Helsinki

Committee with political orientations ranging from left-wing and liberal to right-wing -- released a statement calling the AA a "humiliation" for Croatia and urging the parliament to reject it.

¶6. (U) Opposition parliamentarians attacked several aspects of the AA during debate, predictably focusing on the Agreement's Article 3(b), and arguing over the possible meanings of "Slovenia's junction to the High Sea." Many also criticized the HDZ's "hypocrisy" for having opposed a border deal negotiated by an SDP-led government in 2001, but now demanding this agreement be supported. Another criticism, and one the GoC had not anticipated, was over the process for naming arbitrators under the AA. Several SDP and smaller party parliamentarians, suggesting they had been told as much by Slovene colleagues, claimed that the Commission would obviously consult with Slovenia as an EU Member State but not with Croatia prior to proposing the list of potential arbitrators. Despite the vitriol, however, the governing coalition stayed united and even picked up a few opposition votes in support of the agreement. Furthermore, even while largely abstaining on yesterday's vote, the SDP has left the door open to eventually -- albeit begrudgingly -- supporting the deal in parliament during its final endorsement.

¶7. (SBU) COMMENT: Nobody in Croatia likes the Agreement. Even supporters view the decision to let an ad hoc arbitration body tilted toward Slovenia's interests decide on the final determination of the disputed border areas as a "necessary evil" to get Croatia into the EU. The SDP, meanwhile, will seek to maintain the pressure on the HDZ and the government, and look for any additional ways in which to criticize the deal. The GoC needs to shore up its arguments that the deal is an acceptable compromise that is not pre-determined in its outcome and that will give Croatian views a fair hearing before reaching a decision some years from now. Therefore, the GoC will likely press the Commission to issue reassurances before the ratification debate that it will consult with both parties prior to constructing its list of proposed arbitrators. END COMMENT.
FOLEY